

REMARKS

The issues outstanding in the Office Action mailed March 22, 2005, are the requirement for restriction, the rejections under 35 U.S.C §112, and the rejections under 35 U.S.C §103. Reconsideration of these issues, in view of the following discussion, is respectfully requested. The Examiner is thanked for indicating allowable subject matter, specifically, the incorporation of component (C) or (D), at page 6 of the Office Action.

At the outset, it is respectfully submitted that there is a misunderstanding in the present application. In the present Office Action, the rejection under 35 U.S.C §103 has been reinstated, and it is argued, albeit incorrectly, at page 5 of the Office Action that the claims, as amended, "no longer require the presence of the polyamide (C)." It is not understood why the Examiner interprets the claimed language in this manner, inasmuch as the claim states a "composition comprising ... a further polyamide (C) ... ". In any event, additional clarifying language has been added to the claim. This language does not change the scope of the claim over its prior iteration, in which polyamide (C) was also present. It is respectfully submitted that, in view of this clarification, all the art rejections should be withdrawn, as in the prior Office Action.

With respect to the rejections under 35 U.S.C §112, it is respectfully submitted that these rejections should be withdrawn, in view of the discussion below. The discussion follows the order of the paragraphs at pages 2 and 3 of the Office Action.

It is submitted that the metes and bounds of modifier (M) are well understood by one of ordinary skill in the art and, thus, the claim is not indefinite. It appears that the *only* basis for the allegation of indefiniteness of modifier (M) is overlap with components (C) and (D). It is respectfully submitted that such is a highly impermissible and expressly prohibited basis upon which to support an indefiniteness rejection. Section 2173.05(h) of the M.P.E.P. unequivocally states, "the double inclusion of an element by members of a Markush Group is not, in itself, sufficient basis for objection to or rejection of claims." The M.P.E.P. continues that the "mere fact that a compound may be embraced by more than one member of a Markush Group recited in the claims does not necessarily render the scope of the claim unclear. For example, the Markush Group, 'selected from the group consisting of amino, halogen, nitro, chloro and alkyl' should be acceptable even though 'halogen' is generic to 'chloro.'" The M.P.E.P. continues that the issue of

indefiniteness should be evaluated based on whether the claim, itself, would be understood by one of ordinary skill in the art, and not subject to a per se rule based on any double inclusion.

In the present situation, the claim clearly is understood without any difficulty by one of ordinary skill in the art, despite any perceived overlap in the elements of the claim.

Representative modifiers (M) are given in the paragraph bridging pages 17 and 18 of the specification, and in the passages of the specification continuing on through page 20. While the Office Action argues that there is "no disclosure of what property or function is being modified," this results from an erroneous consideration of the specification. Indeed, it is clear that the "modifier" must achieve the modification function, i.e., softening or improvement of impact strength, as discussed at page 20 of the specification. It is not seen why one of ordinary skill in the art would have any difficulty preparing such a composition or evaluating whether a given composition contains (M). Accordingly, there is no indefiniteness through the use of this term.

The percentages have been clarified in claims 13 and 15 - 20 as well as in claim 1, in order to satisfy the Examiner. However, it is submitted that these changes do not change the scope of the claims, which were submitted to be clear heretofore. With respect to claim 37, moreover, it is not seen why it is alleged that it is unclear whether the compatibilizer is present, inasmuch as the claim recites the composition "comprising said compatibilizer (D)."

It is accordingly respectfully submitted that the claims fully satisfy the requirements of §112 of the statute, and withdrawal of the rejection is respectfully requested. In view of the discussion above, the art rejections should also be withdrawn, it is submitted that the application is in condition for allowance, and passage to issue is respectfully requested.

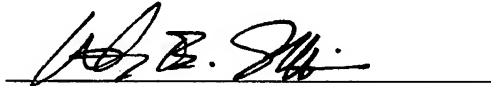
Finally, with respect to the requirement for restriction, Applicants' traversal of the restriction requirement is maintained. The sole withdrawn claim, claim 22, is drawn to an "article according to claim 21" which is decorated by sublimation and coated with a transparent protective layer. Claim 21, directed to an article produced by injection molding of a composition according to claim 1, has been examined. Claim 22 requires *all* of the elements of the construct of claim 21, and as such is related as combination-to-subcombination. The requisite 2-way distinctness necessary to support a restriction requirement in such a situation has not been

established. Moreover, it is submitted that the allowability of claim 21 renders claim 22 per se allowable; as such, the claim should be rejoined in accordance with M.P.E.P. §821.04.

If the Examiner has any questions or comments, she is cordially invited to telephone the undersigned at the number below.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'H.B. Shubin', is written over a horizontal line.

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